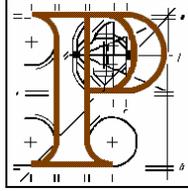


An Bord Pleanála



Inspector's Report

Development: Demolition of existing dwelling and outbuilding and construction of 1 no. 2 storey 4 bed dwelling and all associated site works and landscaping.

Site Address: Blackberry Lane, Stilebawn, Delgany, Co. Wicklow.

Planning Application

Planning Authority: Wicklow County Council
Planning Authority Reg. Ref.: 10/2152
Applicants: Walter Pfeiffer and Ronan O'Caoimh
Type of Application: Permission
Planning Authority Decision: Grant

Planning Appeal

Appellant: Monica Harrop
Tess Byrne
Type of Appeal: 3rd Party - v - grant
Observers: Joan Moran
Date of Site Inspection: 8th August 2010

Inspector: G. Ryan

1.0 SITE

The subject site consists of a field on the southwestern outskirts of Delgany in northeast County Wicklow, on a narrow winding road between the village and the N11 known as Blackberry Lane. The field itself falls gently from south to north, and is covered with untended grasses and scrub, with no significant features of note evident at the time of my site inspection. The northeastern corner of the field is subdivided from the larger part and at a lower level, and is occupied by a single storey house, outbuildings, and a small garden. A children's play area is located in the larger 'field', indicating that the entirety of the site has been in single ownership in the recent past, and there are trial holes evident to the south of this area. The house itself has a long floorplate in the vernacular style with a projecting porch and conservatory to the front and rear respectively. It does not appear to be currently inhabited, although the condition of the house would appear, in my opinion to be such that the house is habitable, with furniture and fittings evident.

The wider area has a distinctly rural character with thick hedgerows and agricultural uses. There is however a reasonable spread of low-density housing in the area, particularly along the northern side of this stretch of Blackberry lane. These houses vary in style and period, some being modest vernacular dwellings, and others appearing to date from the 1960s-1980s. There is a dilapidated house of a similar style to that on the subject site located directly across the road.

At its eastern end, Blackberry Lane runs south from Delgany village at its junction with the R762 and is quite steep on either side of its crossing of the Three Trouts Stream. Along this section it is notably narrow, with few places where two cars could pass. This is evidenced by the vegetation along the centre of the road. Along this stretch, there two sharp corners with little visibility. Along the central section of Blackberry Lane, where the site is located, the road maintains its narrow width, but becomes relatively straight and level. At the road's western end, it becomes somewhat wider with boundary setbacks. Around 650m southwest of the subject site, Blackberry lane ends at a north-south road which runs parallel to the N11 for a short distance. The southern end of this parallel road ends in a 'left in left out' junction on the N11's southbound carriageway, while its northern end meets a grade separated junction of the R762 which provides access from the southbound carriageway and to the northbound carriageway of the N11.

2.0 PROPOSAL

The proposal consists of the demolition of the existing buildings on site (stated ground floor area of 202m²) and the construction of a 322m² 4-bedroom house in the northeast corner of the site, to the south of the existing dwelling on site. The vehicular entrance is shown centrally on the site frontage. The site layout as originally submitted shows a setback of the boundary of 3-3.2m along almost the entirety of the site frontage.

The 2-storey house incorporates a reduced floorplate at first floor level such that most of this level is incorporated within the roof structure, with 'dormer' windows in both directions and a large balcony to the northeast.

The percolation area for the proposed new effluent treatment system would occupy part of the footprint of the existing building on site. The site characterisation form identifies a poor aquifer of high vulnerability indicating a groundwater protection response of R1. A packaged wastewater treatment system and polishing filter is recommended. It is proposed to connect to an existing watermain at the road frontage.

The submitted drawings include survey drawings of the existing house and outbuildings on site.

There is no information entered in the part of the application form relating to single rural houses.

The application to the planning authority included an Engineering Assessment report from AECOM consultants which deals with foul water drainage, storm water drainage, and water supply.

Reports from the applicant's architect outline the proposal. It asserts that the status of the hedgerow as a unique habitat corridor for wildlife would be improved by the proposal, as the hedgerow would be taken back from the road edge. It is proposed to move and replant the existing hedgerow. It is also asserted that due to the replacing of one house with another, there would be no increase in traffic generated. The report references a comparable application across the road (09/1245)

An Arborists report was submitted, discussing the condition of trees within the site area, as well as a Landscape Design Report, which discusses the existing hedgerow and the proposed setback.

2.1 Further information request and response: -

Prior to this grant of permission, the planning authority requested further information on one point, essentially requesting that the setback be amended such that sightlines of 50m are achieved with a setback of 2m from the public road (as opposed to 70m and 3m as proposed). Revised details complying with this request were submitted by the applicant.

3.0 POLICY

3.1 Regional Planning Guidelines for the Greater Dublin Area 2010-2022:-

Strategic Policy SP1 states that the "RPG Settlement Strategy encourages the focusing of new housing development on consolidation within existing built footprint with particular focus on the metropolitan area." A definition of the metropolitan area is given in Section 4.6, although this does not set out, either explicitly or implicitly, a spatial extent for the metropolitan area. The previous guidelines (Fig D2) included a map which set the R762 Glen of the Downs – Delgany – Greystones Road (to the north of the subject site) as the southern boundary of the metropolitan area.

3.2 Wicklow County Council Development Plan 2010

Section 16.4 deals with Architectural heritage and states that the county's architectural heritage not only comprises buildings of national importance, but also more modest structures from vernacular dwellings to farms and outbuildings. This wide variety of building stock has over time contributed to the special character of the County and is a unique resource which, once lost or damaged, cannot be replaced.

Section 16.4.2 goes on to state that The Council will seek to retain vernacular structures where appropriate as their loss through demolition and replacement can considerably diminish the character of an area. The rehabilitation and appropriate reuse of the vernacular building stock can play a vital role in the sustainable development of the County. This section goes on to include the following objectives of note:-

VA1 To seek (through the development management process), the retention, conservation, appropriate repair and reuse of vernacular buildings and features ...The demolition of vernacular buildings will be discouraged.

VA2 Development proposals affecting vernacular buildings will be required to submit a detailed, true measured survey, photographic records and written analysis as part of the planning process.

Greystones/Delgany is classed as a Level 3 Large Growth Town II in the development plan. The definition and position of these settlements is derived from the Regional Planning Guidelines.

3.3 Greystones/Delgany Local Area Plan 2006-2012.

The site is zoned 'R5', which is 'To preserve and improve residential amenity, max 2.5 units / hectare. This is the lowest density specified in any of the 6 'R' zonings. R5 areas are located in a number of locations at the fringes of the LAP area, including a large tract of lands south of Delgany village in the vicinity of the subject site.

Policy TC05 of the plan is to promote the spatial containment of the settlement of Greystones/Delgany, limiting development to the north, west and south in order to promote the development of a compact urban form and to protect the landscape and visual amenity of the hinterland areas.

Section 7.3.1 states, in relation to services, that 'It should not be presumed that because an area is zoned for development that applicants are assured of achieving planning permissions merely because they comply with the policies and objectives of the LAP. The introduction of improved access and drainage to areas may be on a phased basis.'

The landscape and heritage objectives map shows a 'Green route' along a section of Blackberry Lane to the northeast of the subject site. Policy CP13 seeks to provide pedestrian and cyclist access along these routes. The site falls within the Blackberry Lane Area of Special Amenity, which is covered in policy 8.2.10.2 of the written

statement. Relevant excerpts from this section include the following objectives and policies:-

- It is an objective of the Council to preserve the character of Blackberry Lane, in particular the hedgerows and treelines bordering the lane.
- In the interest of road safety, the Council may consider the introduction of traffic management measures to improve pedestrian and cycling safety, such as: traffic calming, reduced speed limit or one-way system.
- In principle development proposals involving excessive damage to or removal of hedgerows and trees will not be permitted

Policy HL17 states that the Council will have regard to the Local Biodiversity Area Study, which considers the biodiversity value of the Three Trout's Stream, in considering proposals for development.

4.0 HISTORY

PL27.234085 (planning authority ref 09/389) – permission refused by the planning authority and refused on appeal to the board for 3 houses on this site, each 2-storey 4-bedroom with separate garage septic tank and percolation areas. 2 reasons were given in the board's decision. The first related to traffic hazard and the substandard nature of the road network in the vicinity, notwithstanding the zoning of the 2006 LAP. The second stated that the board was not satisfied that the development could be satisfactorily drained, with reference to the existing concentration of septic tanks/treatment plants in the vicinity, and the proximity to the Three Trouts Stream.

Planning authority ref 08/1382 - Permission refused for 3 detached two storey dwellings. Reasons for refusal related to traffic, design and loss of trees/hedges.

PL27.216003 (planning authority ref 05/4009) - Permission refused by the planning authority and refused on appeal to Robert & Doris Hamilton and Orla Doyle for 2 houses.

Planning authority ref 01/5168 - Permission refused to Stephen Hamilton for road widening and new entrance.

Planning authority ref 99/1495 - Permission granted by the planning authority but refused on appeal to the board to Stephen Hamilton for one dwelling and outline permission for a second dwelling.

Planning authority ref 96/4663 – permission sought by Doris and Bob Hamilton for one dwelling. Application withdrawn.

Planning authority ref 95/2114 - Permission refused to Stephen and Fiona Gammell for two dwellings on the basis of being outside the development area of the development plan and traffic hazard arising from width, gradient and alignment of the road serving the site.

On the opposite side of the road:-

Planning authority ref 09/1245 - Permission was granted for alterations to previous approved permission 04/1119

planning authority ref 04/1119 - Demolition of existing dwelling & its replacement with 2-storey dwelling, detached double garage & ancillary site development works including biocycle effluent treatment system & irrigation area

Planning authority ref 01/4837 - Permission was granted to Amanda Scales for revised site boundaries to previously approved house and separate vehicular access to adjoining lands.

5.0 PLANNING AUTHORITY DECISION

The planning authority decided to grant permission subject to 15 conditions, many of which could be considered 'standard' conditions. Others of note can be summarised as follows:-

- 4 Requires the setback of the road boundary along a line formed by joining a point 2m back from the public road carriageway at the centre of the access driveway to points 50m to the north and south to the centre of Blackberry Lane. The remaining hedgerow shall be retained.
- 14 Requires the demolition and disposal of the existing building on site within 3 months of the occupation of the proposed dwelling.

6.0 SUMMARY OF REPORTS TO THE PLANNING AUTHORITY

6.1 Planning Officers report

The main issues raised in the planning officer's first report can be summarised as follows: -

- Given the location of the site on zoned lands, the principle of development on this site is considered acceptable subject to further considerations.
- Given the site's location on zoned lands, it does not have to respect the existing property in terms of siting, design, and scale. The design is generally acceptable for this semi-rural location.
- Blackberry Lane is a narrow road on which only one vehicle can travel at any one time. The access arrangements are as per the previous application for 3 houses.
- Notwithstanding the concerns expressed regarding further development of the landholding, the proposal can only be assessed on what has been sought. However, the proposed removal of 125m of hedgerow and its setback by 3m from the edge of the public road is excessive for a single dwelling. Notes the LAP policy regarding the removal of hedgerow, but also that the board's decision under PL27.234085 did not refer to the loss of hedgerow.

- A handwritten note on file, presumably from the planning officer's superior, states that "50m @ a setback of 2m would for 1 dwelling on a narrow land comply with the DMRB".

The planning officer's second report, following the receipt of further information, raises the following additional issues:

- Considers that the further information request has been adequately addressed.
- Handwritten additions to the end of the report by a number of authors, presumably including the planning officer's superiors, discuss the issues surrounding the sightlines and setbacks and subsequent modifications to conditions.

6.2 Departmental Reports and external consultees

Environmental Health Officer: - No objections subject to conditions.

ESB: - A letter on file refers to a live 10,000V overhead line crossing the site which requires that a safe distance be maintained.

Eastern Regional Fisheries Board: - Notes the proximity to the Three Trouts River, an important Salmonid system and the dangers of construction-related discharge to surface waters in the area. Recommends the implementation of best practice at all times.

6.3 Representations

Objections were submitted on behalf of the current appellants and observer. The matters raised in these objections are largely reflected in the appeal grounds and observations summarised below.

7.0 **GROUNDS OF APPEAL**

Two 3rd party appeals were submitted by the following:

Monica Harrop of Briarwood, Blackberry Lane, Delgany, Co. Wicklow, which I understand is the property to the immediate southwest of the subject site. The main grounds of this appeal can be summarised as follows:

- Refers to the previous proposal under Ref. No. 09/389, and the similarities with the current proposal, which is situated where one of the three originally proposed houses was to be located. Notes that no restrictions were placed on the remainder of the site by the planning authority.
- Notes the location of the proposed entrance, which is in the same place, and suggests that the entrance should be put at the location of the cottage to be demolished, in order to preserve the hedgerow.
- The 2 metre setback of the hedgerow is incompatible with the Special Amenity Area status of Blackberry Lane.
- Since the previous refusal, the applicants have cut down trees and hedgerows on the boundary.

- It needs to be considered whether applications by developers and speculators should be granted in this area as the applicants have both stated they do not intend to live in this property.

Tess Byrne of Moorview, Blackberry Lane, Delgany, Co. Wicklow (The exact location of this property relative to the subject site is not evident from the information available). The main grounds of this appeal (in addition to those raised above) can be summarised as follows:

- By increasing the sightlines and widening the lane, it would encourage vehicles to speed up and accelerate into the sharp bends and narrow stretches of road either side of the entrance.
- The lane is used as a public amenity.
- With reference to the previous refusal, the applicants are seeking to build just one house at a time using the same entrance design.
- With reference to condition 14, if Wicklow Co. Co. was genuinely anxious to prevent the accumulation of two dwellings on site, it would freeze the rest of the land holding. The board is asked to impose such a condition.
- Refers to a long planning history of refusals for this site (references cited). The site changed hands twice with a prior history of refusals.
- Refers to wider economic issues and matters relating to the applicants personally.

8.0 SUMMARY OF RESPONSES

8.1 Planning Authority

The planning authority have not responded to the matters raised in the appeal. The correspondence received from the planning authority notes that this is a case which involves a connection to the public water supply/sewerage facilities in respect of which a contribution towards the cost of providing these services would be appropriate.

8.2 First Party Response to Third Party Appeal

A response submitted on behalf of the applicant counters the grounds of the appeal. This submission largely covers matters previously raised, which are summarised elsewhere in this report.

9.0 OBSERVERS

One observation has been submitted from Joan Moran of Drummin View, Blackberry Lane (The exact location of this property relative to the subject site is not evident from the information available). The main issues raised in these observations beyond those raised in the appeals above, have been summarised below:

- The appeal includes 56 photographs taken of Blackberry Lane from the N11 end to Delgany village.
- The western (N11) end of the lane was widened by the Co. Co. in around 1983 to facilitate construction of a reservoir to the west of the subject site.

- Blackberry Lane is totally unsuitable for the type of development proposed.

10.0 ASSESSMENT

Having inspected the site and reviewed the file documents, I consider that the issues raised by this appeal can be assessed under the following broad headings:

- Principle of development
- Traffic
- Visual impact
- Site drainage
- Built heritage

10.1 Principle of development

Given that the site is zoned for residential development, I consider it reasonable that a presumption towards accepting the principle of development be assumed.

The character of the area is undeniably rural, and the site would appear to fall outside the metropolitan area as defined by the regional planning guidelines. As such, there could be some argument in favour of considering rural housing policies in this instance. On the basis of the evidence available, the current applicants would not warrant favourable consideration in this regard. However, the site's location within the development boundary of an LAP, albeit an LAP which incorporates a wide area outside of the existing developed and serviced lands of the locality, is the principle determinant of this issue, in my opinion.

Nevertheless, I note Section 7.3.1 of the LAP which states that 'It should not be presumed that because an area is zoned for development that applicants are assured of achieving planning permissions merely because they comply with the policies and objectives of the LAP. The introduction of improved access and drainage to areas may be on a phased basis.' As discussed in section 10.2 below, there are additional issues that are required to be taken into account when considering the fact that the land is zoned.

The development plan sets a maximum density for these lands of 2.5 units per hectare, which is extremely low in the context of contemporary development patterns. The current scheme proposes 1 unit on a site of 1.3ha, which works out at a density of 0.76 units per hectare or less than a third of the permitted maximum density. Even the previous proposal for 3 houses on this site would have been compliant with this policy.

10.2 Traffic

The limitations of Blackberry Lane from a traffic point of view are, in my opinion, evident to anyone who would have cause to drive, walk, or cycle this road. It is wide enough for just one vehicle along most of its route, and the horizontal and vertical alignment at its northeastern end, with steep gradients and corners with poor visibility

is notable. The section of road to the west of the subject site is somewhat better in terms of width and alignment.

Essentially the lane does not form part of a wider network of comparable roads, but rather connects with a national primary route to the west and a regional route to the northeast. In terms of access alternatives to and from the vicinity of the subject site itself, there are two options, to the east with its poor visibility and lack of passing opportunities, or to the west, essentially providing direct access from a country lane onto a national primary road (described in section 1.0 above), which is contrary to accepted principles in the area of land use and road hierarchies. Neither of these options represents appropriate access arrangements to development lands, in my view.

As things stand, around 2 to 3 dozen houses are accessed via Blackberry lane. The applicant makes the point that in demolishing the existing house on site and replacing it with a new house, that there would be no aggregate increase in traffic generated. Notwithstanding that the proposed house is significantly larger than the existing house, there is merit in this contention. However, in the absence of any identified likelihood for overall improvements to Blackberry Lane, I consider that no further development of any kind would be desirable. The LAP makes reference to “the introduction of traffic management measures to improve pedestrian and cycling safety, such as: traffic calming, reduced speed limit or one-way system”. In my opinion, only a one-way system would address these safety concerns, although there is no evidence to suggest that further consideration has been given to such a proposal, which would itself have a number of implications for the wider area.

In terms of the remedial measures proposed, the setting back of the hedgerow along this stretch, I do not consider that this would address the critical traffic issues, identified above, which exist at either end of the lane, outside the applicant’s control. Indeed, I consider there to be some merit in the appellants’ contention that to increase boundary setbacks along this section would only serve to increase speed along one of the straighter and more level sections of the road, exacerbating safety concerns elsewhere, particularly to the east at the sharp corner. On balance, I do not consider the proposed development to be acceptable in terms of traffic safety.

10.3 Visual impact

In terms of the building’s design, I do not consider it incompatible with the visual amenities of the area. There is a large range of housetypes evident.

The preservation of the hedgerows along Blackberry Lane is central to the policies of the LAP for this area, as summarised in section 3.3 above. The applicant proposes to essentially transplant the hedgerow to a position 2m back from its existing position. While the transplanting of individual trees is a relatively common proposal, I am not aware of any instance where hedgerows have been replaced in their entirety. The applicant has submitted examples from Roscommon and England where this practice has been used. However, I remain sceptical as to the likely success of such a ‘translocation’ as it is described in this instance. Hedgerows are by their nature an interlinked amalgam of trees and other plants, with inherent problems in attempting to move them en masse. Furthermore, even if the translocation were to be successful, it is questionable whether the character of Blackberry Lane would be preserved, given

that it is the relative location of these hedgerows along the narrow road that contributes to this character. In my opinion, the proposed development does not perform well in relation to this policy.

I concur with the inspector's report under PL27.234085 where she considered that *"the local area plan is somewhat contradictory in that the lands are zoned for residential development while there is a clear objective to protect existing hedges along the lane which contribute to the rural character of the lane."*

10.4 Site drainage

I note the board's concerns under PL27.234085 relating to site drainage. The submitted information remains somewhat deficient in that the existing location of septic tanks and percolation areas in the vicinity are still not shown on the site plan. The proposed percolation area is shown to be located straddling the boundary between the main 'field' and the rear 'garden' of the existing house. It was evident at the time of my site inspection that there are sharp level differences across this boundary that are not reflected on the survey drawings. In my opinion, there would be difficulties in resolving the location of the percolation area with this existing topography. Challenges would also be likely to arise from locating a percolation area on existing fill / made ground that would result from being the previous footprint of a building. I do not consider there to be sufficient information to show that the effluent treatment system would operate as envisaged.

10.5 Built heritage

As stated in section 1.0 above, the existing house on site is in relatively good condition, and appears to have been lived in in recent times. I can see no justification for its demolition other than to support the construction of the proposed house by virtue of a 'nett zero' increase in density and traffic generation. I consider that this gives rise to issues of sustainability regarding the efficient use of existing building stock. Furthermore, the existing building could objectively be considered a pleasant addition to Blackberry lane with its vernacular design and layout. Given the amenity value that the LAP places on this lane, this contribution should be recognised. The current county plan (adopted since the date of the appeal) advocates the 'rehabilitation and appropriate reuse of the vernacular building stock' and discourages the 'demolition of vernacular buildings'. Notwithstanding that this issue was not raised by any of the parties to the appeal, it is my opinion the subject proposal is undesirable in this regard.

I also note that objective VA2 of the current county plan requires that development proposals affecting vernacular buildings will be required to submit a detailed, true measured survey, photographic records and written analysis as part of the planning process. While a survey was submitted, a photographic record and written analysis was not.

11.0 CONCLUSION AND RECOMMENDATION

Based on the above, I recommend that permission be refused. Blackberry Lane is unsuitable for further development by reason of its width and alignment, the proposed development would be detrimental to the recreational amenities of the area by virtue of the loss/displacement of the hedgerow and the demolition of an existing vernacular building, and there remain doubts regarding the appropriateness of the effluent treatment system proposed.

12.0 REASONS AND CONSIDERATIONS

1. Notwithstanding the zoning of the land for low density residential development, as set out in the Greystones/Delgany Local Area Plan, 2006-2012, it is considered that the proposed development would endanger public safety by reason of traffic hazard and obstruction of road users, because of the substandard nature of the road network in the vicinity of the site, in terms of road width, alignment and gradient.
2. On the basis of the submissions made in connection with the application and appeal and taken in conjunction with the existing concentration of septic tanks/treatment plants in the immediate vicinity of the site, which is located immediately upland of the Three Trouts Stream, and having regard to the specific topography in the vicinity of the proposed percolation area, the Board is not satisfied that the proposed development can be satisfactorily drained and, therefore, the proposed development would be prejudicial to public health.
3. The existing building on site, by virtue of its vernacular design and layout and relationship to the public road, contributes significantly to the character of Blackberry Lane, which is recognised in the Local Area Plan as performing an important role in the area in terms of heritage and recreation. Furthermore, the policies of the County Development Plan seek to encourage the rehabilitation and reuse of vernacular buildings, and discourage their demolition. The proposed development, which would entail demolition of an existing vernacular building, would detract from the heritage value of the area and seriously injure the visual amenities of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

G. Ryan
Planning Inspector
19th October 2010